

Virginia Legislative Record

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Virginia Division of Legislative Services



Inside this issue:

JCOTS	1
Code Commission	3
Small Business Commission	6
Civil War Commission	9
Disability Commission	13
MLK Commission	14
Did You Know?/Prefiling Calendar	15
Unemployment Commission	16
Housing Commission	16
FOIA	17
Tax Preferences	17
War of 1812 Commission	17
Other Legislative Commissions	18
Regulatory Alert	19

Joint Commission on Technology and Science

November 7, 2012

Energy Advisory Committee

Delegate John Cosgrove, chair of the Energy Advisory Committee (Advisory Committee) of the Joint Commission on Technology and Science, called the meeting to order.

Permit-by-Rule Process

Carol Wampler, Department of Environmental Quality

The meeting began with an update by Ms. Wampler from the Department of Environmental Quality (DEQ) on the “permit-by-rule” process established by 2009 legislation. The legislation allows a permit by rule for small renewable energy projects. DEQ has defined a “small project” as an electrical generation facility that is less than 100 megawatts, or a combustion project of less than 20 megawatts. DEQ has developed rules for wind, solar, and combustion energy. It determined that water-related rules were not necessary, as hydropower is preempted by the Federal Energy Regulatory Commission.

In addition to creating this rule, DEQ is also working to provide resources for local government, such as the development of model ordinances. It has just completed a model wind ordinance and hopes to have others completed by the end of the year. At the completion of Ms. Wampler’s presentation, Deputy Secretary of Natural Resources Maureen Matsen commended Ms. Wampler for her work on implementing the permit-by-rule process.

Biomass

Ken Moss, Piedmont Bioproducts

Mr. Moss provided an overview of the work of Piedmont Bioproducts. The project currently includes a 10-acre demonstration site consisting of a feedstock development program and a refinery system to convert biomass into petroleum-replacement products. The Piedmont Bioproducts process allows for an alternative crop to be grown in the tobacco region and is more cost effective than corn ethanol. The project provides opportunities for rural, southern Virginia and is good for marginal farmlands. While still in its demonstration phase, there is planning for a commercial site that he hopes to have operational by 2014. The vision is for the project to become a regional fuel terminal, as the sites can be replicated everywhere in the state. A 100-ton plant would create 16 plant jobs and twice as many feed stock jobs. A member noted that Piedmont Bioproducts is a CIT Portfolio Company, and that it has also partnered with the Virginia Tobacco Indemnification and Community Revitalization Commission.

Waste to Energy

Ray Crabbs, Arcon Development US LLC

Mr. Crabbs provided an update on his waste-to-energy project. Mr. Crabbs had presented his ideas to the committee in 2011, and he said that what he had talked about “in theory” was now operational. INEOS BioEnergy, LLC completed a waste-to-energy facility in Indian River County, Florida, in August 2012. He indicated that he is looking at potential sites in Virginia to expand waste-to-energy facilities.

*The Joint Commission
on Technology and
Science heard a
presentation on the
permit-by-rule process
from the Department
of Environmental
Quality.*

Energy Efficiency

**Cynthia Adams, Local Energy Alliance
Program, Charlottesville
Member, Virginia Energy Efficiency
Council**

Ms. Adams addressed the Advisory Committee concerning energy efficiency issues. She said that research indicates that Virginians are interested in saving energy and think that energy efficiency raises property values. She discussed some of the current barriers to energy efficiency, such as the need to increase the public's "energy literacy," difficulty in financing efficiency improvements, and a need to translate efficiency into the property appraisal system. The Virginia Energy Efficiency Council is a new organization that strives to support policy, programs, and technologies to grow the energy efficiency industry. An Advisory Committee member stated that he supports Ms. Adams' efforts in this area and sees a need to re-educate energy stakeholders on the value of efficiency. He said that energy policy needs to focus as much on efficiency as it does on supply. Another Advisory Committee member noted that legislation during the 2012 Session required the Real Estate Appraisal Board to report to the Virginia Housing Commission concerning the inclusion of efficiency issues in property appraisals. Staff indicated that she would look for the report and forward it to the committee members.

Maryland, District of Columbia, and Virginia Solar Energy Industry Association

Mr. Healy provided an overview of the Maryland, District of Columbia, and Virginia Solar Energy Industry Association's 2013 legislative priorities. The priorities recommend (i) allowing for power purchase agreements (a financing tool similar to a lease) in Virginia; (ii) creating a tax credit for investments in qualifying energy equipment, including solar thermal energy in the renewable portfolio standards; and (iii) authorizing a distributed generation study.

Proposed Legislation

At the completion of the presentations, Delegate Cosgrove asked the members if they had any policy recommendations to bring before the 2013 Session of the General Assembly. Mr. Arrington suggested that

Virginia needs to work to increase the attractiveness of the biofuels industry in Virginia. This could be accomplished through biofuels production grants, green jobs tax credits, and biodiesel use requirements. He suggested that any incentives would need to be in place for five years to be successful.

Delegate Cosgrove shared with the Advisory Committee that he was considering proposing a bill during the 2013 Session that would impose a fee on hybrid vehicles to offset the fact that such vehicles do not require much gas, and thus the owners do not pay as much gas tax as other vehicles. He shared draft language that would impose a \$25 fee on hybrids; current law imposes a \$50 annual fee on electric vehicles. Another member said he was not opposed to the idea, but wondered if the legislation should distinguish between hybrid vehicles like the Volt that is primarily electric and gets close to 100 miles per gallon, and a car like a Prius that uses more gas and gets 50 miles per gallon. Delegate Cosgrove indicated that he would bring the idea to JCOTS to consider.

Delegate Cosgrove thanked the Advisory Committee members for their work during the interim and for sharing their expertise with the General Assembly.

A copy of all of the meeting presentations is available on the JCOTS website.



JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

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Virginia Code Commission

November 8, 2012

The Virginia Code Commission (Commission) met in Richmond with Senator Edwards, chair, presiding.

Title 64.2 Recodification

David Cotter, Division of Legislative Services

Mr. Cotter presented draft legislation to correct an error in the Title 64.2 recodification legislation (Chapter 614 of the 2012 Acts of Assembly) that became effective October 1, 2012. Mr. Cotter explained that the language makes technical corrections to Title 64.2 by reinserting language that was inadvertently omitted during the recodification process. The omitted language was originally enacted at the 2011 Session of the General Assembly (Chapters 354 and 679). The bill contains an emergency clause and provides that it is effective retroactively to the date Title 64.2 took effect. Mr. Cotter requested that the bill go forward as a recommendation of the Code Commission.

The members approved the draft bill presented by Mr. Cotter as a recommendation of the Code Commission.

Title 33.1 Recodification

Nicole Brenner and Alan Wambold, Division of Legislative Services

Ms. Brenner discussed a policy issue concerning use of the grammatical shortcut “and/or” in legislative drafting. She advised that the term “and/or” is used throughout Title 33.1 and recommends avoiding its use in conformance with current drafting policy. Throughout Title 33.2, staff has changed the term “and/or” to “and” when the meaning is intended to be all inclusive and to “or” when the meaning is intended to include either, both, or all items. Ms. Brenner indicated that, although there was not a consensus among the work group, some work group members voiced concern with this decision, stating that the change (i) could affect contracts that became effective under current law and (ii) could be construed as one item or the other, but not both.

The chair recognized Jeff Allen with the Attorney General’s office who represents the Department of Transportation. Mr. Allen indicated that some provisions where “and/or” is currently used list a series of items. The

Commission agreed to review these provisions on a case-by-case basis and use the phrase “any combination thereof” instead of “or” as warranted.

The Code Commission reaffirmed its policy on the use of “and/or,” which is that “and/or” should always be avoided in legislative drafting and the text should be written to specifically state what is meant, even if more words need to be used. Ms. Brenner indicated that staff will revise the draft bill to make the changes to replace “and/or” as discussed.

Nicole Brenner and Alan Wambold presented the following chapters to the Code Commission for review:

- Outdoor Advertising in Sight of Public Highways
- Rail and Public Transportation
- Transportation Funding
- Public-Private Transportation Act of 1995 (relocated from Title 56)
- Virginia Coalfield Coalition Authority

The majority of changes were technical in nature. Discussion items follow:

OUTDOOR ADVERTISING

Mr. Miller asked if there is a grandfather clause for signs in the outdoor advertising chapter. Mr. Wambold indicated there is one referring to 1936 in § 33.1-380 that staff is proposing to repeal. The Commission named several signs that could be older than 1936 and asked staff to be sure that none of these signs would be affected before removing the grandfather clause. Ms. Brenner stated that the Virginia Department of Transportation (VDOT) maintains an index of signs and the dates they were erected. She assured the members that staff would check on the age of these signs before removing the grandfather clause from the title.

§ 33.1-373

Mr. Wambold explained that the last sentence of § 33.1-373 was added in 1994 and seems to nullify the entire chapter. After a brief discussion, the representative for VDOT offered to research the legislation that enacted the provision. Staff will report findings back to the Commission.

§§ 33.1-23.6 AND 56-558

In response to staff’s inquiry, the Commission discussed whether to set out the full text of § 33.1-23.6, Legislative findings and purposes, and § 56-558, Policy, in proposed Title 33.2. The

The Virginia Code Commission heard an update on the Title 33.1 recodification.

The Virginia
Administrative Code
Contract Subcommittee
conducted a survey to
determine who uses the
print version of the
Virginia Administrative
Code and who uses the
annotations.

current policy is to codify provisions from the acts into the *Code of Virginia* only when the provisions have general or permanent application; otherwise, a section number is assigned, but the text is not set out in full. Some members favored being more inclusive and putting these types of provisions in the *Code* for public accessibility; however, it was noted that adding these sections could impact the size of the *Code*. The Commission decided to “not set out” § 33.1-23.6, Legislative findings and purposes, but to retain the full text of § 56-558, Policy. The consensus of the Commission was to revisit the “not set out” policy at a future meeting.

VIRGINIA COALFIELD COALITION AUTHORITY

VDOT staff offered to research the status of the Virginia Coalfield Coalition Authority to see whether it exists or can be repealed.

Virginia Administrative Code Contract Subcommittee

Mr. Miller indicated that the Virginia Administrative Code (VAC) Subcommittee (Subcommittee) is conducting a survey to determine who uses the print version of the VAC and who uses the annotations. Also, the Subcommittee, after due diligence, identified two other publishers—Darby Printing in Atlanta and Conway-Greene in Cleveland—and contacted them to see if they have any interest in printing VAC. So far there has been no response from these publishers. LexisNexis has also been contacted. Mr. Miller is working with West on possible refinements to its offer. Mr. Miller indicated that the extension to the current contract with West still needs to be signed.

December 4, 2012

The Virginia Code Commission (Commission) met in Richmond with Senator Edwards, chair, presiding.

New Website

The Commission reviewed the newly redesigned Commission website. The Division of Legislative Automated Systems is also working with Commission staff to redesign the websites for the *Virginia Register of Regulations*, *Virginia Administrative Code*, and *Code of Virginia*.

Administrative Law Advisory Committee

Chris Nolen, Administrative Law Advisory Committee (ALAC) chair, presented ALAC’s report, beginning with a draft bill amending § 2.2-4011 of the *Code of Virginia* regarding emergency regulations. Mr. Nolen explained that ALAC recommended this bill to address situations where there has been a gap between the expiration date of the emergency regulation and the effective date of the permanent replacement regulation. The bill (i) extends the duration of an emergency regulation from 12 months to 18 months and (ii) clarifies that any Governor’s approval of a six-month extension beyond the 18-month timeframe must occur prior to the expiration of the emergency regulation. Several editorial amendments were noted, and the Commission voted to approve the legislation as amended.

Next, Mr. Nolen reported that during the public comment period at the November 26, 2012, ALAC meeting, a member of the public expressed concern with procedures for executive review of regulations as required by Governor’s executive orders that have carried forward over several administrations. The commenter’s primary concerns were that these executive orders appear to be contrary to Virginia law and cause a lack of transparency in the regulatory process. The commenter wanted to emphasize that the executive order procedures tend to delay the regulatory process and overly extend the length of time it takes to finalize a regulation. Mr. Nolen indicated that ALAC will be developing its proposed work plan early next year for submission to the Commission and will discuss whether this issue should be addressed by ALAC at that time.

Finally, Mr. Nolen explained that Senator Edwards had requested that ALAC review § 2.2-4027 of the *Code of Virginia*, especially the substantial evidence standard. The question is whether courts should have more oversight of the administrative process. The concern is that courts assume the agencies have expertise but many do not. Mr. Nolen explained that ALAC reviewed similar statutes in other states, but did not review court opinions regarding those laws due to time constraints. ALAC also did not have an opportunity to obtain input from the Virginia Bar Association or the Supreme Court of Virginia. Mr. Nolen indicated that after a lengthy discussion at its November 26 meeting, ALAC did not arrive at a consensus but was willing to study this issue if the Commission so desires.

Senator Calhoun suggested that ALAC conduct a roundtable with members from the administrative law sections of the Virginia Bar Association and the Virginia State Bar to discuss this issue. Judge Sharp suggested that ALAC review Supreme Court of Virginia opinions to develop parameters for new language for the statute. After further discussion, Mr. Nolen indicated that ALAC will propose making this issue part of its work plan.

2013 Code of Virginia Pricing

Brian Kennedy, LexisNexis

Mr. Kennedy presented the *Code of Virginia* proposed replacement volume options and pricing proposal for the 2013 *Code of Virginia* replacements and supplements. The Commission approved pricing for issuing five volumes in 2012. The Commission voted to replace Volumes 6B (Titles 40.1-45.1), 7A (Title 47.1-53.1), 7B (Title 54.1), 8A (Title 58.1), and the second volume of the Legal Ethics Opinions (LEO2). A price increase of 4.1 percent is proposed for state agency and private purchases.

Virginia Administrative Code Contract Subcommittee

Mr. Miller stated that the Virginia Administrative Code (VAC) Subcommittee (Subcommittee) has met three times. The mission of the Subcommittee was to review (i) the proposed extension of the current contract for the print publication of the VAC and (ii) the current proposal for renewal of the contract for reasonableness and to see if there were any alternatives. A contract extension of the current terms and conditions through April 30, 2013, was signed by West and is now before the chair for his signature.

As to the current proposal for renewal, Mr. Miller explained that two factors are the use of the annotations and use of the print version of VAC. With the assistance of Brenda Dillard of the Virginia Bar Association, a survey to determine who uses the print VAC and who uses the annotations was sent to the mailing list for the Virginia Bar Association Administrative Law Conference annual meeting. Of the 67 responses, just under half use the print and about half use the annotations. Most responders requested that the annotations be made available online for free. Mr. Miller stated that the annotations are value added and are the reason the publisher sells the printed version.

The Commission then met in closed session pursuant to §§ 2.2-3711 A 29 and 30-147 B of the *Code of Virginia*. Mr. Miller stated that the Subcommittee plans to meet to finalize its recommendation and that the Commission likely will need to convene in January to make a decision on the VAC contract.

Barrier Crimes Study

The chair made note of a recent study by the Department of Social Services (DSS) stemming from Senate Bill 97 (2012). A former Division of Legislative Services (DLS) staff attorney had approached the Code Commission in 2010 with technical and organizational issues concerning the listing of barrier crimes in Titles 37.2 and 63.2 and drafted a related bill for the Commission's consideration. The Commission did not endorse that bill, but voted to request the House and Senate Courts committees to review the issue. The chair introduced the legislation at the 2011 and 2012 General Assembly sessions.

Sarah Stanton, DLS Senior Attorney, explained that Senate Bill 97 was continued to the 2013 session. Senator Norment, Chair of the Senate Courts of Justice Committee, wrote a letter to DSS requesting a study of the bill and the proper organization of barrier crimes and background check requirements in the *Code of Virginia*.

A DSS representative reviewed the handout regarding the study, which contained specific recommendations for consideration by the General Assembly. Some of the recommendations related to reorganization of the statutes and others contained substantive amendments. There was a consensus by the work group with regard to the organizational changes; however, the report contains several issues for which there was no consensus and recommendations for subsequent study. The Commission discussed whether to endorse a bill pertaining only to the nonsubstantive organizational elements; however, no motion was made.

The Virginia Code Commission heard information regarding pricing for the 2013 Code of Virginia replacements and supplements.

VIRGINIA CODE COMMISSION

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Small Business Commission

November 20, 2012

The Virginia Jobs Investment Program covers 511 projects, which have resulted in 6,016 new jobs created and 5,076 employees retrained.

The Small Business Commission (Commission) meeting began with the election of officers. The Commission elected Senator Frank Ruff to serve as chair and Delegate Daniel Marshall to serve as vice chair.

Virginia Jobs Investment Program

Duc Truong, Department of Business Assistance

Mr. Truong, Senior Operations Manager, provided an overview of the Virginia Jobs Investment Program (VJIP) administered by the Department of Business Assistance (DBA). VJIP is composed of the following component programs: (i) the Virginia New Jobs Program, (ii) the Workforce Retraining Program, (iii) the Small Business New Jobs Program, and (iv) the Small Business Jobs Grant Fund Program. The VJIP covers 511 projects, which have resulted in 6,016 new jobs created and 5,076 employees retrained for a total of 11,092 jobs affected. The percentage of projects by region were as follows:

- Northern Virginia - 26 percent.
- Central Virginia - 27 percent.
- Southwest Virginia - 9 percent.
- Southside Virginia - 7 percent.
- Hampton Roads - 8 percent.
- Shenandoah Valley - 23 percent.

The average reimbursement for each job under the program is \$730.55. Of the 511 projects funded by VJIP, 328 were SWaM businesses with 55 of the businesses being minority-owned and 40 women-owned. Businesses that qualify under the different VJIP programs are given cash payments for each job created or retrained, subject to program limitations or availability of funds. The payments are made to qualified applicants on a first come, first served basis.

It was noted that 76 percent of the projects were located in three regions—Northern Virginia, Central Virginia, and the Shenandoah Valley—and that DBA should consider devoting more resources to areas with significant unemployment rates. Several questions were asked regarding how DBA markets the individual programs within VJIP.

Mr. Truong indicated that the contacts were established with the economic development personnel of most localities and that there were ongoing advertising efforts such as Small Business Appreciation Week. In addition, the online small business guide developed by the agency had received over 100,000 downloads. Discussion among the Commission members included a suggestion that DBA increase efforts to market the programs to maximize usage, including web-based training and outreach.

Several Commission members expressed concern over how DBA verifies information submitted by applicants and the adequacy of tracking mechanisms to ensure that the jobs continue to exist for a period after the payment has been received. It was suggested that DBA could request more information from applicants on the individual employees who were in the positions for which reimbursement was being sought to prevent a business from receiving money for the same employees using the new jobs or expansion and retraining programs or getting reimbursed for an unqualified position. In addition, DBA should seek access to the quarterly reports that businesses file with the Virginia Employment Commission as an additional verification tool. It was also suggested that an audit process be instituted and that all VJIP programs should include a provision requiring repayment of any money received for a position that was not filled or did not qualify for other reasons.

Small, Women-Owned, and Minority-Owned Businesses

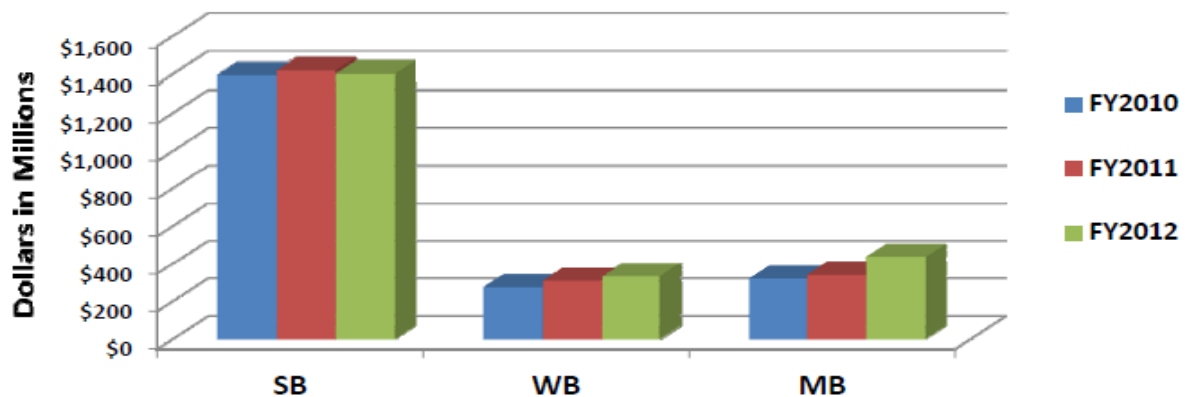
Ida McPherson, Department of Minority Business Enterprise

Ms. Ida McPherson, Director of the Department of Minority Business Enterprise (DMBE), provided a brief update. As of October 15, 2012, a total of 20,819 small, women-owned, and minority-owned (SWaM) businesses had been certified by the agency. Of this amount, 8,922 were small businesses, 5,272 women-owned businesses, and 6,625 minority-owned businesses. In fiscal year 2012 over \$1.4 billion in state procurement funds had been paid to certified SWaM businesses. This amounted to an increase for women-owned businesses of \$23 million from fiscal year 2011 and \$95 million for minority-owned businesses.

Certified SWaM Businesses as of October 15, 2012

Small Business	Women-owned Business	Minority-owned Business	Total SWaM Business
8,922	5,272	6,625	20,819

Commonwealth of Virginia
Procurement Payments to Certified Small, Women-owned, and Minority-owned Businesses
(Dollars in Millions)
FY 2010, 2011, & 2012 (July 1, 2009 to June 30, 2012)



FY	SB	WB	MB
FY2010	\$1,395	\$273	\$319
FY2011	\$1,421	\$308	\$340
FY2012	\$1,403	\$331	\$435

In fiscal year 2012 over \$1.4 billion in state procurement funds had been paid to certified SWaM businesses, an increase for women-owned businesses of \$23 million from fiscal year 2011 and \$95 million for minority-owned businesses.

Ms. McPherson described several DBME initiatives to promote SWaM participation in state procurement, including (i) establishing additional satellite offices in Danville, Petersburg, Hampton, and Virginia Beach; (ii) matching such SWaM businesses with a procuring agency; (iii) providing assistance in using eVA, the state's electronic procurement program; and (iv) creating a pilot program involving 100 businesses over a four-month period. Ms. McPherson noted that the current definition of small business, which establishes a maximum of 250 employees, may not adequately address the needs of small businesses. She explained that the greatest numbers of small businesses have fewer than 16 employees and that small businesses in this range are more likely to hire additional employees. Targeting this smaller subset of small businesses would help to support increased participation by SWaM businesses and increase job creation. Ms. McPherson indicated that the DBME requires certified SWaM businesses to provide Form 941 reports and employer identification numbers (EIN) in order to verify the number of employees and the total gross receipts to ensure that the businesses meet the criteria for certification.

Several Commission members asked if previous disparity studies conducted on behalf of the state were being used to increase the participation in state procurement of women-owned and minority-owned businesses. Ms. McPherson stated that studies conducted in 2004 and 2009 did indicate disparity between the state's availability of women-owned and minority-owned businesses and the utilization of the businesses by the state and included several recommendations to address the disparity. Small businesses, particularly those with the fewest number of employees, have more difficulty in bidding on large state projects. Ms. McPherson stated there was a need to establish mentorship programs and to review the current bonding requirements for state projects.

Public Comment

Doug Grey, Executive Director of the Virginia Association of Health Plans, addressed the Commission on the status of health care reform. Mr. Grey stated that Virginia would likely have to use the federal exchange rather than developing a state exchange. The state will have to decide whether it will retain plan management at the state level by January 2013. For the long term, the state must decide

whether it will transition to a state-level exchange and, if so, the timeline for the transfer from the federal exchange. It was noted that the availability of federal funding for development of state exchanges expires at the end of 2014.

Discussion among the Commission members then proceeded. Ms. Riley noted that one area of future inquiry for the Commission would be Workers' Compensation. Virginia employers were experiencing an increase in premiums because of rising medical costs. She stated that reform should be considered to set up a Medicare-based fee structure similar to what 43 other states have established. She cited examples of how the process could be changed to lower costs, including (i) paying discounted rates for multiple procedures performed in one operation, (ii) reviewing the amount of time allowed for filing a claim, and (iii) considering whether physician assistants should be reimbursed at a discounted rate. A review of reform legislation in this area will be included in future deliberations of the Commission.

The chair instructed staff to inform the standing committee and subcommittee chairs that they have proposed legislation reviewed by the Commission to evaluate the impact to small businesses. The vice chair suggested that the Commission establish subject matter subcommittees and work groups to develop a uniform method for evaluating and resolving issues and propose legislation.

Next Meeting

The chair indicated that the Commission would schedule a meeting in April 2013 prior to the Reconvened Session to begin its review of any proposed legislation that may be referred from the 2013 legislative session.

SMALL BUSINESS COMMISSION

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Virginia Sesquicentennial of the American Civil War Commission

November 29, 2012

Speaker Howell called the meeting of the Virginia Sesquicentennial of the American Civil War Commission (Commission) Executive Committee to order and welcomed those in attendance.

2013 HistoryMobile Tour Schedule

Cheryl Jackson, Executive Director



Ms. Jackson reported that the Civil War 150 HistoryMobile continues to be an incredible success and will wrap up its 2012 tour at Chatham Manor in Fredericksburg on December 9. With 20 tour stops in 2011 and 52 tour stops in 2012, the HistoryMobile and its staff have traveled 14,000 miles and served approximately 60,000 visitors from all 50 states. Of those visitors, close to 40 percent have been students.

Enhancements to the HistoryMobile experience in 2012 included: (i) the integration of replicas and soldier uniforms as part of the introduction to the HistoryMobile tour; and (ii) the addition of a point of sale system in March enabling visitors to purchase Commission merchandise at the HistoryMobile - offsetting tour costs by approximately \$7,000 in 2012. Maintenance and refurbishment of the HistoryMobile and its exhibits is scheduled for the off-season.

Ms. Jackson continued by highlighting four important functions of the HistoryMobile:

- The HistoryMobile and accompanying materials, all based on the Virginia Standards of Learning, serve as significant resources for teachers and students in learning about the Civil War in Virginia.
- The HistoryMobile draws attention to events and venues where it stops, creating interest and generating higher visitation.
- The HistoryMobile has proven to be an

excellent way to engage local partners, highlight local history, and provide a complete exhibition directly to the community.

- The HistoryMobile serves as a “Welcome Center on Wheels,” providing Virginia travel information through touch-screen kiosks, travel brochures, and information tents set up at every stop.

Noting that Pennsylvania’s Civil War Road Show, a similar mobile museum that was scheduled to tour through 2014, has been discontinued due to a lack of funding and state support, Ms. Jackson credited Virginia’s Civil War 150 HistoryMobile success to the vision of the Commission, dedication of staff, and the unprecedented partnerships created between the Commission and the Virginia Tourism Corporation, Department of Motor Vehicles, and Virginia Historical Society.

Ms. Jackson presented the proposed tour schedule for 2013. The HistoryMobile will begin its tour year in January at Stratford Hall in Westmoreland County, and then will return to the State Capitol for a week during the 2013 Session of the General Assembly. Beginning in late February, at least 35 tour stops are scheduled or in development. As Executive Committee members reviewed the proposed schedule, Ms. Jackson pointed out that the HistoryMobile will travel to all corners of the state including stops in Henry and Buchanan counties, and will travel out of state for 150th anniversary events in Gettysburg. Additional out-of-state events may be scheduled to fill vacancies in the schedule with tour stops that will maximize the reach of the HistoryMobile. A motion passed unanimously to approve the 2013 tour schedule as proposed.

Sesquicentennial Tourism Marketing Grant Program

Two grant applications during the summer grant cycle (Round 9) and four applications from the fall grant cycle (Round 10) were recommended by the grant review committee for funding:

Shenandoah Valley Battlefields Foundation

“Civil War Trails Marker: Star Fort Interpretation Center”

- Amount of award: \$5,000; Amount of match from recipient: \$5,400
- This project is for four Virginia Civil War Trails signs at Star Fort in Winchester. The

*The
Civil War 150
HistoryMobile had 52
tour stops in 2012.*

signs will be part of an interpreted trail that will develop the site into a major historic and tourism destination.

Petersburg Area Regional Tourism

“Walk in Lincoln’s Final Footsteps”

- Amount of award: \$5,000; Amount of match from recipient: \$5,000
- The funds will be used toward creating and printing the Walk in Lincoln’s Final Footsteps brochure, which will include a map with GPS coordinates that will encourage visitors to experience the final chapter in Lincoln’s life and his efforts to unite the nation.

Mecklenburg County Civil War 150 Committee

“Mecklenburg County Home Front during the Civil War Web Tour”

- Amount of award: \$1,500; Amount of match from recipient: \$1,500
- The grant will be used to develop and market a web-based driving “tour” containing an interactive map and associated landmarks’ histories, as well as downloadable, printable materials that educate the user on Mecklenburg County Home Front - Life in a Southern Virginia County during the Civil War and its Aftermath.

Warren County Sesquicentennial Committee

“What Started in Gettysburg, Ended in Front Royal: The Battle of Wapping Height/Manassas Gap”

- Amount of award: \$1,300; Amount of match from recipient: \$1,300
- The funds will be used to develop a new Civil War Trails interpretive marker to interpret the Battle of Wapping Heights (aka Manassas Gap)

Town of Abingdon

“Abingdon and Washington County: 2013 American Civil War Commemoration Program”

- Amount of award: \$4,251; Amount of match from recipient: \$4,251
- The funds will be used to develop and install two Civil War Trails markers: one on Confederate General Joseph Johnston’s life (located at Abingdon’s Fields-Penn 1860 Museum) and one on the use of Muster Grounds to train infantry and cavalry forces, including the Washington County Mounted Rifles (located at Abingdon’s Muster Grounds).

Richmond Discoveries

“J.E.B. Stuar’s Ride Commemorative Trail”

- Amount of award: \$5,000; Amount of match from recipient: \$5,400
- The funds will be used to develop additional markers on the J.E.B. Stuart’s Ride Commemorative Trail.

Ms. Jackson reported that with the Commission’s approval of these six applications, \$153,940 will have been awarded through this grant program thus far, generating an additional \$240,142 in matching funds. Ms. Jackson further reported that the remaining balance in the grant program should be sufficient to last through 2015, if applications remain steady. The grant recommendations passed unanimously en bloc.

An American Turning Point

Andrew Talkov, Virginia Historical Society

Mr. Talkov updated the Executive Committee members on the tremendous success of the Commission-sponsored gallery exhibition, *An American Turning Point: The Civil War in Virginia*, currently in the fourth leg of its tour. The exhibition has been viewed by approximately 104,500 people since its opening in early 2011. Mr. Talkov continued his update by reviewing the gallery exhibition’s 2013 tour schedule pointing out one change in venue. The National Museum of the Marine Corps will not be able to host the exhibition in 2013 due to a 1.5 year delay in its facility expansion plan that was originally scheduled for completion in 2012. As a result, the museum does not have enough space to accommodate *An American Turning Point*. Once notified, staff at the Virginia Historical Society attempted to identify another museum in the Northern Virginia area with sufficient space, staff, and interest to host the exhibition but found none. In order to close the gap in the schedule, staff recommends extending the exhibition’s time at the History Museum of Western Virginia in Roanoke to 11 months (June 22, 2013 - June 1, 2014) prior to moving on to the William King Regional Arts Center in Abingdon. It was the sense of the Executive Committee that this was a suitable solution.

An American Turning Point: The Civil War in Virginia has been viewed by approximately 104,500 people.

Staff Updates

Cheryl Jackson, Executive Director

APPROVAL OF LOGO REQUESTS

Ms. Jackson reported that the Commission has approved a total of 189 logo requests to date. The Commission approved an additional 16 logos requests as follows:

- Henrico Parks and Recreation Historic Preservation and Museum Services (Print brochure)
- Fairfax County Cemetery Preservation Association (Print and online advertising and program guide)
- Legacy Museum of African American History, Lynchburg (Print brochure)
- Historic Manassas, Inc. (Mobile phone app)
- Northern Virginia 4-H Educational and Conference Center (Flyer, website, registration materials)
- Historic Centreville Society (Print brochure)
- Gloucester County Parks, Recreation and Tourism (Flyer)
- Pamunkey Regional Library (Flyer and bookmark)
- Fairfax County History Commission (Education/curriculum kit)
- Museum of the Confederacy and the University of Richmond (Print and online advertising)
- Mathews County Sesquicentennial Committee (Poster)
- Town of Abingdon and the Washington County Sesquicentennial Committee (Print brochure)
- Spotsylvania County Museum (Website)
- Charlotte County Sesquicentennial Committee (Flyer)
- Front Royal - Warren County Sesquicentennial Committee (Newspaper article and PowerPoint presentation)
- Museum of the Confederacy and the Library of Virginia (Print and online advertising)

2013 SIGNATURE CONFERENCE PROPOSAL: “THE AMERICAN CIVIL WAR AT HOME”

Ms. Jackson updated Executive Committee members on the 2013 Signature Conference to be held at the College of William and Mary on April 20, 2013, reporting that staff continues to work with the host committee at the college on the details of the event. Registration is open, and will continue online until April 1 or when capacity is reached.

“IMPACT OF THE SESQUICENTENNIAL” REPORT

Ms. Jackson briefly presented a draft edition of the report, *Civil War Sesquicentennial in Virginia: Impact at the Halfway Mark* to Executive Committee members. Ms. Jackson noted that when looking at the data collected for this report it became clear that the sesquicentennial commemoration has been extremely successful in increasing interest in, and visitation to, Virginia sites and events related to the Civil War and Emancipation. In fact, the Virginia Tourism Corporation reports that one in seven tourism dollars spent in Virginia is from leisure travelers engaged in Civil War history. Further, these travelers stay 50 percent longer and spend 24 percent more money than the average leisure traveler.

Strong public enthusiasm for Civil War and Emancipation-related sites and programs is also borne out by website analytics reported by the Virginia Tourism Corporation as views of its Civil War pages have increased 96 percent in the last 12 months. Overall, the agency reports that 20 percent of the visitors to its main website request Civil War-related travel information. The Commission’s own website receives an average of 15,000-20,000 views per month with 8,300 subscribers to its electronic notification list. The Walk in Their Footsteps database and travel planning tools on the Commission’s website has had almost 68,000 hits in the last 12 months.

Ms. Jackson continued summarizing the draft report by highlighting the impact of some of the Commission’s initiatives as shown on the next page.

The 2013 Signature Conference, The American Civil War at Home, will be held at the College of William and Mary on April 20, 2013.

The Derivative Panel Exhibit of *An American Turning Point*

The derivative panel exhibit of *An American Turning Point* that was created for use by smaller museums and libraries has been on display at 20 different locations across the state and has been viewed by more than 18,000 visitors drawing significant attention to these smaller museums and libraries that do not typically experience high visitation.

The Civil War 150 Legacy Project has collected over 29,650 scanned images of Civil War-related documents held in private hands.

HistoryMobile

The Civil War 150 HistoryMobile, like the panel exhibit, serves as an outstanding way to engage local partners, highlight local history, and provide quality programming and outreach directly to the community.

Signature Conference

The Commission's Signature Conference series draws a dedicated audience with nearly all conferences reporting over 50 percent of attendees travelling more than 50 miles to attend.

Civil War 150 Legacy Project

The Civil War 150 Legacy Project: Document Digitization and Access through a partnership with the Library of Virginia has collected over 29,650 scanned images of Civil War-related documents held in private hands.

DVD Set

The Commission-funded production of the DVD set *Virginia in the Civil War: A Sesquicentennial Remembrance* was distributed free of charge to every public elementary, middle, and high school in Virginia and continues to be the Commission's highest-selling product.

Tourism Marketing Grant Program

The sesquicentennial tourism marketing grant program has provided matching grants to promote tourism and generate a positive economic impact on local communities.



VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION

SPEAKER WILLIAM J. HOWELL, CHAIR
CHERYL JACKSON, EXECUTIVE DIRECTOR
MICHELE HOWELL AND KATHY DUVALL, DLS
STAFF

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Virginia Disability Commission

December 4, 2012

The Virginia Disability Commission (Commission) met in Richmond.

Virginia Office for Protection and Advocacy Transition Plan

Colleen Miller, Virginia Office for Protection and Advocacy

Ms. Miller informed the Commission that the Virginia Office for Protection and Advocacy had prepared and submitted a transition plan as required by Chapter 847 of the Acts of Assembly of 2012. The plan has been provided to the Governor for his review and also to the General Assembly and Commission members.

Discussion of Recommendations

Staff presented the final recommendations adopted at the September meeting. Commission members voted to revise three recommendations:

FIRST RECOMMENDATION

Commission members amended their recommendation requesting the Departments of Medical Assistance Services and Social Services to work together with the Department for Aging and Rehabilitative Services (DARS) to identify and collect information necessary to determine the number of persons actually waiting for services through the DARS Personal Assistance Services program. Instead of requesting legislation, the Commission voted to write a letter to the Director of the Department for Medical Assistance Services and the Commissioners of Social Services and for Aging and Rehabilitative Services requesting that they work together to identify and collect such information.

SECOND RECOMMENDATION

Commission members voted to amend their recommendation adding \$4.5 million in each year from the general fund for brain injury services through the Department for Aging and Rehabilitative Services (DARS) to allow DARS to (i) eliminate waiting lists and add core services, including adult and pediatric case management, clubhouses, day programs, and

regional resource coordination in underserved areas; (ii) secure infrastructure and workforce of existing programs; (iii) streamline and modernize outcomes data collection systems; (iv) conduct brain injury surveillance, outreach, and consultation services; (v) enhance the Personal Assistance Services for Individuals with Brain Injury program and expand the Brain Injury Discretionary Services Fund; and (vi) create a discharge assistance fund for transfer from institutional to community-based settings for persons with brain injury. At the request of advocates, the Commission voted to reduce the amount requested to \$2.5 million in each year and eliminate item (vi) from the list of activities for which funds might be used.

THIRD RECOMMENDATION

Commission members amended their recommendation for budget language requesting the Department of Medical Assistance Services to complete the application for a brain injury waiver and adding \$2.5 million in each year from the general fund for a 20-bed neurobehavioral treatment unit pilot program in the Commonwealth. At the request of advocates, the Commission struck the language directing the Department of Medical Assistance Services to complete the waiver application.

A table reflecting the amended final recommendations and patrons can be found on the Commission's website.

Other Business

Two members identified items for the Commission's work plan for the 2013 interim:

- A process for assessing and prioritizing budget recommendations on a cost-benefit basis.
- The study of issues related to accessibility of travel accommodations and other tourism-related facilities.

The Virginia Disability Commission heard information regarding the Virginia Office for Protection and Advocacy Transition Plan.

VIRGINIA DISABILITY COMMISSION

DELEGATE BRENDA POGGE, CHAIR SARAH STANTON, DLS STAFF

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Dr. Martin Luther King, Jr. Memorial Commission

December 4, 2012

The Dr. Martin
Luther King, Jr.
Memorial
Commission will
participate in the
annual Emancipation
Proclamation Day
service on January 1,
2013.

The Dr. Martin Luther King, Jr. Memorial Commission (Commission) and its subcommittees and work groups met at Hampton University to continue its review of the renewed racial and socioeconomic isolation of public schools and plans for the annual statewide King holiday and the 150th anniversary of the Emancipation Proclamation.

Racial and Socioeconomic Isolation of Public Schools Work Group

The Racial and Socioeconomic Isolation of Public Schools Work Group (Work Group), a part of the Commission's Special Subcommittee on the Public School Closings (Massive Resistance) in Virginia, discussed the national and state trends in the renewed racial and socioeconomic isolation of public schools and the effects on student achievement and learning. Dr. Fred Millar, an educational sociologist, member of the African American Parents Network and Arlington Latino Network, and Arlington parent activist, presented compelling data concerning this national and pressing local issue in Arlington and the reluctance among many citizens to address the growing problem. He noted that the Supreme Court of the United States in Seattle and Kentucky (*Parents Involved in Community Schools v. Seattle School District No. 1* and *Meredith v. Jefferson County Board of Education*) allows school divisions to take the racial and socioeconomic makeup of localities into consideration when redrawing school division lines; however, lessening racial and socioeconomic isolation among students engenders great resistance by parents and the public. The Work Group recommended to the Commission that among other things, certain data be gathered and analyzed to determine whether the problem existed throughout the Commonwealth, review successful efforts of other states, review Virginia statutes relevant to drawing school division lines, and discuss the issues with various school division superintendents.

Music Work Group

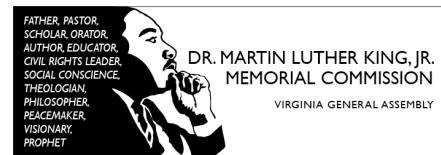
The Music Work Group (Work Group) of the Abraham Lincoln Bicentennial Subcommittee reported that the program for the concert on

April 13, 2013, was complete. The members reported that musical compositions have been selected from the Virginia Historical Society Civil War Music Sheet Music Collection for the exhibit, the fundraising campaign has begun, letters have been sent to institutions of higher education seeking student singers for the mass choirs, levels of giving and benefits to sponsors have been determined, and the student art contest criteria and guidelines will be posted to the Commission's website on Friday, December 14, 2013. The Work Group discussed ways and agreed upon dates by which to complete other essential items.

Full Commission

The Commission received and approved the reports of the subcommittees and work groups. Additional items were added and changes were made to the Emancipation Proclamation signature events. It was agreed that the Commission would support the annual Community Leaders' Breakfast again this year, kick off the commemoration of the 150th anniversary of the Emancipation Proclamation with a Watch Night Service in collaboration with the faith community on December 31, 2012, and participate in the annual Emancipation Proclamation Day service on January 1, 2013, in Richmond. Members were reminded to confer with staff throughout the legislative session for updates and work that must be completed before April 2013.

POWER ON: OUT OF BONDAGE...INTO FREEDOM
**EMANCIPATION
PROCLAMATION**
SESQUICENTENNIAL 1863-2013
Dr. Martin Luther King, Jr. Memorial Commission
Virginia General Assembly



DR. MARTIN LUTHER KING, JR. MEMORIAL COMMISSION

SENATOR HENRY L. MARSH III, CHAIR
BRENDA EDWARDS, DLS STAFF

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Did You Know?

"Did You Know?" appears in each issue of the *Virginia Legislative Record*. The article features important topics or interesting facts relevant to the Virginia legislature. For general questions or issue suggestions, please contact the Division at (804) 786-3591 or email mtanner@dls.virginia.gov.

2013 Session Prefiling Calendar

- Joint subcommittees on studies should submit an executive summary including findings and recommendations to DLAS by the first day of the General Assembly's Regular Session.
 - All drafts of legislation to be prefiled returned by DLS for requester's review by midnight December 28, 2012.
 - All requests for drafts, redrafts, and corrections of legislation creating or continuing a study to DLS by 5:00 p.m. on January 4, 2013.
 - All requests for redrafts and corrections for legislation to be prefiled to DLS by 5:00 p.m. on January 4, 2013.
 - Covered drafts of legislation to be prefiled available at DLS by noon on January 8, 2013.
 - Prefiling for the 2013 Session ends at 10:00 a.m. on January 9, 2013.
 - The 2013 General Assembly convenes on January 9, 2013, at noon.
-

Members of the General
Assembly requesting multiple
copies of Division of
Legislative Services
publications should email
mtanner@dls.virginia.gov.

Commission on Unemployment Compensation

December 4, 2012

The Commission on Unemployment Compensation met on December 4, 2012, in Richmond. Agenda items included the election of officers; an update on the status of the unemployment trust fund; discussion of Senate Joint Resolution 16 (2012), conforming changes of the Virginia Unemployment Compensation Act to the Trade Adjustment Assistance Extension Act of 2011; Senate Bill 376 (2012), shared work programs; response from the Virginia Employment Commission on the Joint Legislative Audit and Review Commission Report on worker misclassification; and legislative proposals for the 2013 Session, including self-employment programs, benefit-ratio calculation methodology, and implementing § 2103 of the Middle Class Tax Relief and Job Creation Act.

COMMISSION ON UNEMPLOYMENT COMPENSATION

SENATOR JOHN WATKINS, CHAIR
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Virginia Housing Commission

December 5, 2012

The Virginia Housing Commission met in Richmond to elect a chair, hear presentations regarding the City of Chesapeake and updates on the use of proffer funding, review proposed legislation, receive an update on the Virginia Housing Trust Fund, and receive the Federal Reserve Bank of Richmond's forecast on housing trends.



VIRGINIA HOUSING COMMISSION

DELEGATE JOHN A COSGROVE, CHAIR
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Virginia Freedom of Information Advisory Council

December 17, 2012

The Virginia Freedom of Information Advisory Council will meet in Richmond on December 17, 2012, to hear subcommittee reports, review legislative drafts recommended by its subcommittees, discuss and take action on subcommittee recommendations, and hear the annual legislative preview.



**Virginia Freedom of Information
Advisory Council**

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

SENATOR RICHARD H. STUART, CHAIR
MARIA EVERETT, EXECUTIVE DIRECTOR
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Joint Subcommittee to Evaluate Tax Preferences

December 17, 2012

The Joint Subcommittee to Evaluate Tax Preferences will meet in Richmond on December 17, 2012. An agenda was not available at the time of publication.

JOINT SUBCOMMITTEE TO EVALUATE TAX PREFERENCES

LISA WALLMEYER AND DAVID ROSENBERG,
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Virginia Bicentennial of the American War of 1812 Commission

December 18, 2012

The Virginia Bicentennial of the American War of 1812 Commission Subcommittee on Signage for the Virginia War of 1812 Heritage Trail will meet in Richmond on December 18, 2012, at 10:00 a.m., and the Subcommittee on the 2013 Chesapeake Bay Tour to commemorate the British invasion of Hampton Roads will meet at 1:00 p.m. on the same day.

The United States Coast Guard has commissioned the painting of the U.S. Revenue Cutter *Thomas Jefferson* as a part of the bicentennial of the War of 1812. An official unveiling and presentation of a copy of marine artist Patrick O'Brien's painting will be held with Delegate M. Kirkland Cox, Commission chair, on December 13, 2013, in the Old House Chamber.



VIRGINIA BICENTENNIAL OF THE AMERICAN WAR OF 1812 COMMISSION

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Other Legislative Commissions

The following are other legislative commissions that hold regular meetings during the interim. Visit their websites to obtain full information regarding their meeting dates, agendas, and summaries.

Joint Legislative Audit and Review Commission

<http://jlarc.virginia.gov/meetings.html>

Virginia State Crime Commission

<http://vscc.virginia.gov/meetings.asp>

Joint Commission on Health Care

<http://jchc.virginia.gov/meetings.asp>

Virginia Commission on Youth

<http://vcoy.virginia.gov/meetings.asp>

*For more
information, visit
study and commission
websites. DLS staff
members maintain
comprehensive study
and commission
websites that contain
complete summaries
of meetings and links
to additional
information,
handouts,
and resources.*

REGULATORY ALERT

A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH

The Regulatory Alert is intended to assist General Assembly members as they keep up with the myriad regulations being proposed by agencies in the Commonwealth. The goal of this project is to provide a timely, simple, and accurate summary of the rules that are being proposed by agencies, boards, and commissions. Highlighting regulations when they are published as “proposed regulations” gives General Assembly members notice that the critical public participation phase of the rulemaking process is well underway. It is during the public participation process that the questions of an Assembly member or constituent may be most effectively communicated to the agency and examined by the individuals crafting the regulatory proposal.

The Regulatory Alert is not intended to be a substitute for the comprehensive information on agency rulemaking activity that is currently published biweekly in the *Virginia Register of Regulations* or the notification services offered by the Regulatory Town Hall website maintained by the Department of Planning and Budget. It is hoped that this section of the *Virginia Legislative Record* will assist members as they monitor the development, modification, and repeal of administrative rules in the Commonwealth. Access the *Virginia Register of Regulations* online at <http://register.dls.virginia.gov> or contact epalen@dls.virginia.gov or the Code Commission staff at (804) 786-3591 for further information.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

REGISTRAR’S NOTICE: The Virginia Soil and Water Conservation Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the Virginia Soil and Water Conservation Board pursuant to the Virginia Stormwater Management Act (§ 10.1-603.1 et seq.) of Title 10.1 of the Code of Virginia, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

4VAC50-60. Virginia Stormwater Management Program (VSMP) Permit Regulations (amending 4VAC50-60-10, 4VAC50-60-1200 through 4VAC50-60-1240).

Written public comments may be submitted until January 4, 2013.

Summary:

This proposed regulatory action amends and reissues the General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s). This action to update and reissue the General Permit is authorized under the federal Clean Water Act (33 USC § 1251 et seq.) and the Virginia Stormwater Management Act (§ 10.1-603.2 et seq.), which require that state permits be effective for a fixed term not to exceed five years. The existing five-year General Permit became effective on July 9, 2008.

This proposed regulatory action sets forth guidelines for the permitting of discharges of stormwater runoff from small municipal separate storm sewer systems (small MS4s) in urbanized areas. Small MS4s include systems owned or operated by municipalities, federal facilities, state facilities (including VDOT), and universities. The proposed General Permit establishes standard language for control of small MS4 stormwater discharges through the development, implementation, and enforcement of an MS4 program to reduce the impacts of the stormwater discharges on the receiving streams to the maximum extent practicable. The MS4 Program will require the operator to identify best management practices (BMPs) to control stormwater discharges and measurable goals for each identified BMP for each

of the following control measures: (i) public education and outreach on stormwater impacts, (ii) public involvement/participation, (iii) illicit discharge detection and elimination, (iv) construction site stormwater runoff control, (v) post-construction stormwater management in new development and development on prior developed lands, and (vi) pollution prevention/good housekeeping for municipal operations. The proposed General Permit requires the operator to evaluate program compliance, the appropriateness of identified BMPs, progress towards achieving the identified measurable goals, and submit annual reports. The proposed action also requires that the operator address Total Maximum Daily Load (TMDL) Wasteload Allocations, including those associated with the Chesapeake Bay TMDL, assigned to the operator and contains other conditions governing the development, implementation, and reporting requirements of an MS4 Program.

The key changes to this permit include:

1. Updating and adding definitions and making global changes in terminology;
2. Clarifying that the General Permit governs discharges to surface waters and not state waters;
3. Inserting Table 1 to clarify the timing for various required elements of Program Plan updates; Table 2 to include calculation sheets for estimating existing source loads; and Table 3 to include calculation sheets for estimating the total reduction required during the permit cycle;
4. Rewriting the Special Conditions in Section I of the General Permit to stipulate detailed strategies and processes;
5. Clarifying and expanding minimum criteria within the General Permit associated with the six minimum control measures; and
6. Providing additional clarity on what is not considered an MS4 Program modification that would require a permit modification, as well as how MS4 Program modifications may be requested by the department.

For more information, please contact David C. Dowling, Department of Conservation and Recreation, Richmond, VA, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcv.virginia.gov.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

9VAC25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities (amending 9VAC25-193-10 through 9VAC25-193-70; adding 9VAC25-193-15).

Written public comments may be submitted until January 11, 2013.

Summary:

The proposed regulatory action reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on September 30, 2013. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from concrete products facilities to surface waters.

Substantive proposed changes (i) add two reasons authorization to discharge cannot be granted (if the antidegradation policy is not met or if the discharge is not consistent with a total maximum daily load (TMDL)), (ii) add language to allow for administrative continuances of coverage, (iii) add approval of representative outfalls and closure plans for portable plants as part of the registration, (iv) reduce monitoring requirements from monthly to quarterly, (v) clarify that total petroleum hydrocarbon monitoring was only necessary when vehicle degreasing was occurring on site, (vi) add

benchmark monitoring concentrations for storm water, and (vii) remove total petroleum hydrocarbon and iron monitoring from the storm water limits page.

In the special conditions, the proposed changes clarify what information is required for temporary and long-term facility closure plans and add (i) that no oil sheen shall be present and waste water should be reused or recycled when feasible, (ii) that settling basins must be lined if they are expanded, (iii) quantification levels of total suspended solids and total petroleum hydrocarbons, (iv) that discharges to TMDL waters must implement measures and controls consistent with the TMDL, (v) an allowance for deleting or adding outfalls, (vi) procedures for termination of coverage, (vii) instructions for allowing temporary closures for inactive and unstaffed sites, (viii) that discharges must meet water quality standards, and (ix) that coverage under the permit did not relieve an owner of compliance with any other federal, state, or local statute, ordinance, or regulation.

This action revises Part II (Storm Water Management) to make it more consistent with the 2009 Industrial Storm Water General Permit (9VAC25-151) conditions. Changes make this general permit similar to other general permits issued recently and respond to staff and technical advisory committee members' requests to clarify and update permit limits and conditions.

For more information, please contact Elleanore M. Daub, Department of Environmental Quality, Richmond, VA, telephone (804) 698-4111, FAX (804) 698-4032, TTY (804) 698-4021, or email elleanore.daub@deq.virginia.gov.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

12VAC5-115. Virginia Immunization Information System (adding 12VAC5-115-10 through 12VAC5-115-80).

Written public comments may be submitted until January 18, 2013.

Summary:

The proposed regulations implement the Virginia Immunization Information System (VIIS). VIIS is a voluntary, statewide immunization registry that consolidates patient immunization histories from birth to death into a complete, accurate, and definitive record that is available to Virginia's

participating health care providers. The proposed regulations (i) define who is allowed access to VIIS; (ii) specify access requirement; (iii) ensure compatibility with current state and federal guidelines in the areas of patient data confidentiality and system security; (iv) address the security features of the application; (v) define the data to be collected; (vi) state the mechanisms for populating and capturing data; (vii) define the approved use of data, the authorized recipients, and the procedure for obtaining the data; and (viii) address the use of VIIS in a public health emergency.

For more information, please contact James Farrell, Department of Health, Richmond, VA 23219, telephone (804) 864-8055, or email james.farrell@vdh.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

12VAC30-120. Waivered Services (adding 12VAC30-120-1700 through 12VAC30-120-1770; repealing 12VAC30-120-70 through 12VAC30-120-120).

Written public comments may be submitted until January 18, 2013.

Summary:

This action repeals the existing Technology Assisted Waiver regulations (12VAC30-120-70 through 12VAC30-120-120) and promulgates new regulations (12VAC30-120-1700 et seq.) in response to changes in the affected industry and to achieve greater consistency and clarity in content and format with the other Department of Medical Assistance (DMAS) waiver programs.

The proposed amendments (i) expand and modify definitions; (ii) update waiver participant eligibility requirements for clarification of institutional deeming rules and for consistency and clarity in the use of a Uniform Assessment Instrument for eligibility determination (the deeming rules are applied as if the participant resided in an institution and would require that level of care); (iii) update provider participation standards and staff qualifications for consistency with current industry standards; (iv) incorporate the use of the Uniform Assessment Instrument and screening guidelines for anyone requesting waiver screening; (v) clarify DMAS provision of direct waiver oversight for this waiver and authorization of services; (vi) update and clarify all waiver services and provider service delivery standards to

the current industry standards; (vii) include and expand waiver participant rights and responsibilities; and (viii) update to current industry practices the waiver individual's right to file grievances or exercise appeal rights.

For more information, please contact Yvonne Goodman, Department of Medical Assistance Services, Richmond, VA, telephone (804) 786-0503, FAX (804) 786-1680, or email yvonne.goodman@dmas.virginia.gov.

TITLE 16. LABOR AND EMPLOYMENT

SAFETY AND HEALTH CODES BOARD

16VAC25-90. Federal Identical General Industry Standards (repealing 16VAC25-90-1910.151).

16VAC25-95. Medical Services and First Aid for General Industry (adding 16VAC25-95-10).

16VAC25-175. Federal Identical Construction Industry Standards (repealing 16VAC25-175-1926.50).

16VAC25-177. Medical Services and First Aid Standards for the Construction Industry (adding 16VAC25-177-10).

*The Safety and Health Codes Board has **WITHDRAWN** the proposed regulatory actions for 16VAC25-90, Federal Identical General Industry Standards (repealing 16VAC25-90-1910.151); 16VAC25-95, Medical Services and First Aid Standards for General Industry (adding 16VAC25-95-10); 16VAC25-175, Federal Identical Construction Industry Standards (repealing 16VAC25-175-1926.50); and 16VAC25-177, Medical Services and First Aid Standards for the Construction Industry (adding 16VAC25-177-10), which were published in 25:2 VA.R. 277 September 29, 2008.*

For more information, please contact Regina P. Cobb, Department of Labor and Industry, Richmond, VA, telephone (804) 786-0610, FAX (804) 786-8418, TTY (804) 786-2376, or email regina.cobb@doli.virginia.gov.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING CEMETERY BOARD

18VAC47-20. Cemetery Board Rules and Regulations (amending 18VAC47-20-70, 18VAC47-20-140).

A public hearing will be held on January 8, 2013, at 9 a.m. at the Department of Professional and Occupational Regulation in Richmond. Written public comments may be submitted until February 1, 2013.

Summary:

The proposed amendments increase all fees paid by licensees and registrants subject to the authority of the Cemetery Board including initial licenses, registrations, renewals, and reinstatements for cemetery companies and cemetery salespersons.

For more information, please contact Christine Martine, Cemetery Board, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email cemetery@dpor.virginia.gov.

BOARD FOR CONTRACTORS

18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-10, 18VAC50-22-100; adding 18VAC50-22-65, 18VAC50-22-66).

A public hearing will be held on December 19, 2012, at 10 a.m. at the Department of Professional and Occupational Regulations in Richmond. Written public comments may be submitted until February 1, 2013.

Summary:

The board is amending the regulations to include temporary licenses available to out-of-state contractors that hold licenses in good standing in another state. The proposed amendments include the licensing requirements, the associated fees, and the disciplinary authority of the board for the temporary licenses.

For more information, please contact Eric L. Olson, Board for Contractors, Richmond, VA 23233, telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

18VAC50-30. Individual License and Certification Regulations (amending 18VAC50-30-10, 18VAC50-30-40, 18VAC50-30-90, 18VAC50-30-100, 18VAC50-30-120, 18VAC50-30-130, 18VAC50-30-185, 18VAC50-30-190, 18VAC50-30-200, 18VAC50-30-220).

A public hearing will be held on December 19, 2012, at 10 a.m. at the Department of Professional and Occupational Regulations in Richmond. Written public comments may be submitted until February 1, 2013.

Summary:

The proposed amendments add (i) definitions for “certified accessibility mechanics” and “limited use/limited application endorsement” and (ii) criteria, fees, and continuing education requirements associated with certification. The proposed action also includes an endorsement for limited use/limited application elevators.

For more information, please contact Eric L. Olson, Board for Contractors, Richmond, VA 23233, telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

BOARD OF MEDICINE

18VAC85-50. Regulations Governing the Practice of Physician Assistants (amending 18VAC85-50-10, 18VAC85-50-101, 18VAC85-50-110, 18VAC85-50-115, 18VAC85-50-130, 18VAC85-50-150).

Written public comments may be submitted until January 18, 2013.

Summary:

The amendments (i) change the requirement for the physician to see a patient not less frequently than every fourth visit for a continuing illness by allowing the physician and his assistant to determine the evaluation process and (ii) amend the regulations for consistency and clarity.

For more information, please contact William L. Harp, M.D., Board of Medicine, Richmond, VA 23233, telephone (804) 367-4558, FAX (804) 527-4429, or email william.harp@dhp.virginia.gov.

REAL ESTATE BOARD

18VAC135-50. Fair Housing Regulations (amending 18VAC135-50-10, 18VAC135-50-20, 18VAC135-50-50, 18VAC135-50-110, 18VAC135-50-200, 18VAC135-50-270, 18VAC135-50-290,

18VAC135-50-350, 18VAC135-50-400, 18VAC135-50-440).

A public hearing will be held on January 8, 2013, at 10 a.m. at the Department of Professional and Occupational Regulations in Richmond. Written public comments may be submitted until February 1, 2013.

Summary:

The proposed amendments clarify and update the regulations for consistency with federal and state laws. Amendments include changing the definition of “handicap” to be synonymous with the term “disability”; (ii) clarifying the procedure for determining the date of filing for a fair housing complaint, and (iii) clarifying that the fair housing administrator’s duties include developing facts sufficient to support a recommendation regarding a complaint rather than a determination.

For more information, please contact Christine Martine, Executive Director, Real Estate Board, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email re-board@dpor.virginia.gov.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

22VAC40-745. Assessment in Assisted Living Facilities (amending 22VAC40-745-10 through 22VAC40-745-110).

A public hearing will be held on December 12, 2012, at 4 p.m. at the Henrico Department of Social Services in Henrico. Written public comments may be submitted until February 1, 2013.

Summary:

The proposed amendments include (i) revised definitions and text to comport with current Department of Social Services licensing regulations, (ii) clarification of regulation content related to assessment of individuals applying to or residing in ALFs, determination of services to be provided, and discharge or transition, and (iii) incorporation of person-centered language throughout the regulation.

For more information, please contact Karin Clark, Department of Social Services, Richmond, VA 23219, telephone (804) 726-7017, FAX (804) 726-7015, TTY (800) 828-1120, or email karin.clark@dss.virginia.gov.



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